SINGLE BENCH 3

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

WRIT PETITION NO. 1936 /2005

PETITIONER : Dhruv Lal, S/o Shri Dhiraji, aged 29 years, Occupation-working as Secretary of Gram Panchayat Chilfi, Tahsil Lormi, District Bilaspur (C.G.)

-VERSUS-

RESPONDENTS :

1. State of Chhattisgarh through Secretary, Department of Panchayat and Rural Development, Mantralaya, D.K.S.Bhavan, Raipur (C.G.)
2. Collector, Bilaspur (C.G.)
3. Joint Director, Panchayat & Social Welfare, Raipur (C.G.)
4. Sub Divisional Officer (Revenue), Lormi, District Bilaspur (C.G.)
5. Chief Executive Officer, Janpad Panchayat, Lormi, District Bilaspur (C.G.)
6. Sarpanch, Gram Panchayat Chilfi, Janpad Panchayat Lormi, Tahsil Lormi, District Bilaspur (C.G.)

P.R. No. 2026/05
Presented by Shri N.K. Shukla
dated 04.05.05

WRIT UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT, ORDERS OR DIRECTION.

248/05
2/5/05

RECEIVED-COPY
4/5/05
CLERK to A.G. BILASPUR

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. No. 1936/2005 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

09-11-2005.

Shri Rajeev Shrivastava, learned counsel for the petitioner.

Shri Arun Sao, learned Dy. Govt. Advocate, for the State/ respondents 1 to 4.

Shri Vinay Pandey, learned counsel for respondent No.6.

Heard.

The petitioner was appointed as Secretary (Panchayat Karmi) of Gram Panchayat, Chilfi. The petitioner was issued a notice to appear in the meeting of Gram Panchayat on 09.04.2005. The petitioner appeared in the meeting on 09.04.2005 and the Gram Sabha resolved to remove the petitioner. Accordingly, the petitioner was removed by order dated 23.04.2005 (Annexure-P/4). The petitioner has filed this petition under Article 226 of the Constitution of India challenging the legality of the order dated 23.04.2005 as being illegal and contrary to the provisions of the Panchayat Service (Discipline and Appeal) Rules, 1999 (for short "Rules,1999").

Shri Rajeev Shrivastava, learned counsel appearing for the petitioner submits that Rule 7 of the Rules, 1999 provides for formal inquiry before imposing a major penalty. Learned further submits that termination of service is a major penalty as specified in Rule 5, Clause (b) (vi) of the Rules, 1999.

Shri Vinay Pandey, learned counsel appearing for respondent No.6 submits that the petitioner was given proper opportunity of hearing before the Gram Sabha resolved to remove the petitioner from the service. Learned counsel further submits that the grievance of the petitioner that

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the procedure as specified in Rule 7 of the Rules 1999 was not followed is a technical objection as the rule of principles of natural justice has been followed.

Admittedly, there was no formal inquiry as provided under Rule 7 of the Rules 1999 before removing the petitioner from his service.

Having heard learned counsel for the parties and perused the records, it is found that the service of the petitioner has been removed from his service without complying with the statutory provisions of Rule 7 of the Rules 1999. No inquiry was held before removing the petitioner from his service, as such the impugned order is bad and illegal.

For the reasons stated above, the impugned removal order dated 23.04.2005 (Annexure-P/4) is quashed and the petitioner is entitled to reinstatement with 50% of the back-wages, within a period of one month from the date of receipt of copy of this order.

The petition stands allowed to the extent indicated above. No order as to costs.

Consequently, M.W.P. No. 1533/2005 stands disposed of.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge

16.11.07
9.12.07